



## Senate

General Assembly

February Session, 2006

**File No. 481**

Senate Bill No. 666

*Senate, April 11, 2006*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

### **AN ACT CONCERNING MUNICIPAL LIENS FOR ACCRUED FINES AND CERTAIN CODE VIOLATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-12 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) If any building or structure has been erected, constructed,  
4 altered, converted or maintained, or any building, structure or land  
5 has been used, in violation of any provision of this chapter or of any  
6 bylaw, ordinance, rule or regulation made under authority conferred  
7 hereby, any official having jurisdiction, in addition to other remedies,  
8 may institute an action or proceeding to prevent such unlawful  
9 erection, construction, alteration, conversion, maintenance or use or to  
10 restrain, correct or abate such violation or to prevent the occupancy of  
11 such building, structure or land or to prevent any illegal act, conduct,  
12 business or use in or about such premises. Such regulations shall be  
13 enforced by the officer or official board or authority designated  
14 therein, who shall be authorized to cause any building, structure, place

15 or premises to be inspected and examined and to order in writing the  
16 remedying of any condition found to exist therein or thereon in  
17 violation of any provision of the regulations made under authority of  
18 the provisions of this chapter or, when the violation involves grading  
19 of land, the removal of earth or soil erosion and sediment control, to  
20 issue, in writing, a cease and desist order to be effective immediately.  
21 The owner or agent of any building or premises where a violation of  
22 any provision of such regulations has been committed or exists, or the  
23 lessee or tenant of an entire building or entire premises where such  
24 violation has been committed or exists, or the owner, agent, lessee or  
25 tenant of any part of the building or premises in which such violation  
26 has been committed or exists, or the agent, architect, builder,  
27 contractor or any other person who commits, takes part or assists in  
28 any such violation or who maintains any building or premises in  
29 which any such violation exists, shall be fined not less than [ten] one  
30 hundred nor more than [one] five hundred dollars for each day that  
31 such violation continues; but, if the offense is wilful, the person  
32 convicted thereof shall be fined not less than [one] five hundred  
33 dollars nor more than [two hundred and fifty] one thousand dollars  
34 for each day that such violation continues, or imprisoned not more  
35 than ten days for each day such violation continues or both; and the  
36 Superior Court shall have jurisdiction of all such offenses, subject to  
37 appeal as in other cases. Any person who, having been served with an  
38 order to discontinue any such violation, fails to comply with such  
39 order within ten days after such service, or having been served with a  
40 cease and desist order with respect to a violation involving grading of  
41 land, removal of earth or soil erosion and sediment control, fails to  
42 comply with such order immediately, or continues to violate any  
43 provision of the regulations made under authority of the provisions of  
44 this chapter specified in such order shall be subject to a civil penalty  
45 not to exceed two thousand five hundred dollars, payable to the  
46 treasurer of the municipality. In any criminal prosecution under this  
47 section, the defendant may plead in abatement that such criminal  
48 prosecution is based on a zoning ordinance or regulation which is the  
49 subject of a civil action wherein one of the issues is the interpretation

50 of such ordinance or regulations, and that the issues in the civil action  
51 are such that the prosecution would fail if the civil action results in an  
52 interpretation different from that claimed by the state in the criminal  
53 prosecution. If the court renders judgment for such municipality and  
54 finds that the violation was wilful, the court shall allow such  
55 municipality its costs, together with reasonable attorney's fees to be  
56 taxed by the court. The court before which such prosecution is pending  
57 may order such prosecution abated if it finds that the allegations of the  
58 plea are true.

59 (b) Any fine imposed by a municipality pursuant to the provisions  
60 of subsection (a) of this section, and remaining unpaid for a period of  
61 sixty days after its due date shall constitute a lien upon the real estate  
62 against which the fine was imposed from the date of such fine,  
63 provided a notice of violation is recorded in the land records and  
64 indexed in the name of the property owner no later than thirty days  
65 after the fine was imposed. Each such lien may be continued, recorded  
66 and released in the manner provided by the general statutes for  
67 continuing, recording and releasing property tax liens. Each such lien  
68 shall be effective from the time of the recording of the lien on the land  
69 records, shall take precedence over all other liens and encumbrances,  
70 except taxes, and may be enforced in the same manner as property tax  
71 liens. Each title insurance company issuing a policy for property in this  
72 state shall exclude coverage for loss or damage because of a valid  
73 existing lien or a future unrecorded lien imposed under this  
74 subsection.

75 (c) Any municipality imposing a fine pursuant to subsection (a) of  
76 this section shall maintain a current record of all properties with  
77 respect to which such fine remains unpaid in the office of the  
78 municipal clerk. Such record shall be available for inspection by the  
79 public.

80 Sec. 2. Section 8-12a of the general statutes is repealed and the  
81 following is substituted in lieu thereof (*Effective October 1, 2006*):

82 (a) Any municipality may, by ordinance adopted by its legislative

83 body, establish penalties for violations of zoning regulations adopted  
84 under section 8-2 or by special act. The ordinance shall establish the  
85 types of violations for which a citation may be issued and the amount  
86 of any fine to be imposed thereby and shall specify the time period for  
87 uncontested payment of fines for any alleged violation under any such  
88 regulation. No fine imposed under the authority of this section may  
89 exceed [one] two hundred fifty dollars for each day a violation  
90 continues. Any fine shall be payable to the treasurer of the  
91 municipality.

92 (b) The hearing procedure for any citation issued pursuant to this  
93 section shall be in accordance with section 7-152c except that no zoning  
94 enforcement officer, building inspector or employee of the municipal  
95 body exercising zoning authority may be appointed to be a hearing  
96 officer.

97 (c) Any zoning enforcement officer who issues a citation pursuant to  
98 an ordinance adopted under this section shall be liable for treble  
99 damages in any civil action if the court finds that such citation was  
100 issued frivolously or without probable cause.

101 (d) Any fine imposed by a municipality pursuant to the provisions  
102 of subsection (a) of this section, and remaining unpaid for a period of  
103 sixty days after its due date shall constitute a lien upon the real estate  
104 against which the fine was imposed from the date of such fine,  
105 provided a notice of violation is recorded in the land records and  
106 indexed in the name of the property owner no later than thirty days  
107 after the fine was imposed. Each such lien may be continued, recorded  
108 and released in the manner provided by the general statutes for  
109 continuing, recording and releasing property tax liens. Each such lien  
110 shall be effective from the time of the recording of the lien on the land  
111 records, shall take precedence over all other liens and encumbrances,  
112 except taxes, and may be enforced in the same manner as property tax  
113 liens. Each title insurance company issuing a policy for property in this  
114 state shall exclude coverage for loss or damage because of a valid  
115 existing lien or a future unrecorded lien imposed under this

116 subsection.

117 (e) Any municipality imposing a fine pursuant to subsection (a) of  
118 this section shall maintain a current record of all properties with  
119 respect to which such fine remains unpaid in the office of the  
120 municipal clerk. Such record shall be available for inspection by the  
121 public.

122 Sec. 3. Section 47a-53 of the general statutes is repealed and the  
123 following is substituted in lieu thereof (*Effective October 1, 2006*):

124 (a) Whenever any tenement, lodging or boarding house or any  
125 building, structure, excavation, business pursuit, matter or thing in or  
126 about such house or the lot on which it is situated, or the plumbing,  
127 sewerage, drainage, lighting, paint or ventilation of such house, is, in  
128 the opinion of the board of health or other enforcing agency, in a  
129 condition which is or in its effect is dangerous or detrimental to life or  
130 health, or whenever any tenement, lodging or boarding house in the  
131 opinion of the board or enforcing agency, is in violation of the  
132 provisions of section 19a-109, the board or other enforcing agency may  
133 declare that the same, to the extent specified by the board or other  
134 enforcing agency, is a public nuisance. The board or enforcing agency  
135 may order such public nuisance to be removed, abated, suspended,  
136 altered or otherwise remedied, improved or purified. The board of  
137 health or other enforcing agency may also order or cause any tenement  
138 house or part thereof, or any excavation, building, structure, sewer,  
139 plumbing pipe, paint, passage, premises, ground, matter or thing in or  
140 about a tenement, lodging or boarding house or the lot on which such  
141 house is situated, to be purified, cleansed, disinfected, removed,  
142 altered, repaired or improved.

143 (b) If any order of the board of health or other enforcing agency is  
144 not complied with, or not so far complied with as the board or other  
145 enforcing agency regards as reasonable, within five days after the  
146 service thereof, or within such shorter time as the board or other  
147 enforcing agency designates, such order may be executed by the board  
148 or other enforcing agency, through its officers, agents, employees or

149 contractors. The expense of executing such order, including an amount  
150 not to exceed five per cent of the expense thereof as a service charge  
151 and ten per cent of the expense thereof as a penalty shall be collected  
152 from the owner by an action in the name of the city, borough or town.

153 (c) Any expense of executing an order, including any service charge  
154 and penalty, imposed by the board of health or other enforcing agency  
155 pursuant to the provisions of subsection (b) of this section, and  
156 remaining unpaid for a period of sixty days after its due date shall  
157 constitute a lien upon the real estate against which the expense was  
158 imposed from the date of such expense, provided a notice of violation  
159 is recorded in the land records and indexed in the name of the  
160 property owner not later than thirty days after the expense was  
161 imposed. Each such lien may be continued, recorded and released in  
162 the manner provided by the general statutes for continuing, recording  
163 and releasing property tax liens. Each such lien shall be effective from  
164 the time of the recording of the lien on the land records, shall take  
165 precedence over all other liens and encumbrances, except taxes, and  
166 may be enforced in the same manner as property tax liens. Each title  
167 insurance company issuing a policy for property in this state shall  
168 exclude coverage for loss or damage because of a valid existing lien or  
169 a future unrecorded lien imposed under this subsection.

170 (d) Any board of health or other enforcing agency imposing an  
171 expense, including a service charge and penalty, pursuant to  
172 subsection (b) of this section shall maintain a current record of all  
173 properties with respect to which such expenses remain unpaid in the  
174 office of the municipal clerk. Such record shall be available for  
175 inspection by the public.

176 Sec. 4. Section 47a-58 of the general statutes is repealed and the  
177 following is substituted in lieu thereof (*Effective October 1, 2006*):

178 (a) Any enforcing agency may issue a notice of violation to any  
179 person who violates any provision of this chapter or a provision of a  
180 local housing code. Such notice shall specify each violation and specify  
181 the last day by which such violation shall be corrected. The date

182 specified shall not be less than three weeks from the date of mailing of  
183 such notice, provided that in the case of a condition, which in the  
184 judgment of the enforcing agency is or in its effect is dangerous or  
185 detrimental to life or health, the date specified shall not be more than  
186 five days from the date of mailing of such notice. The enforcing agency  
187 may postpone the last day by which a violation shall be corrected upon  
188 a showing by the owner or other responsible person that he has begun  
189 to correct the violation but that full correction of the violation cannot  
190 be completed within the time provided because of technical  
191 difficulties, inability to obtain necessary materials or labor or inability  
192 to gain access to the dwelling unit wherein the violation exists.

193 (b) When the owner or other responsible person has corrected such  
194 violation, [he] the owner or other responsible person shall promptly,  
195 but not later than two weeks after such correction, report to the  
196 enforcing agency in writing, indicating the date when each violation  
197 was corrected. It shall be presumed that the violation was corrected on  
198 the date so indicated, unless a subsequent inspection by the enforcing  
199 agency again reveals the existence of the condition giving rise to the  
200 earlier notice of violation.

201 (c) Any person who fails to correct any violation prior to the date set  
202 forth in the notice of violation shall be subject to a cumulative civil  
203 penalty of five dollars per day for each violation from the date set for  
204 correction in the notice of violation to the date such violation is  
205 corrected, except that in any case the penalty shall not exceed [five]  
206 one hundred dollars per day nor shall the total penalty exceed  
207 [seventy-five] seven thousand five hundred dollars. The penalty may  
208 be collected by the enforcing agency by action against the owner or  
209 other responsible person or by an action against the real property. An  
210 action against the owner may be joined with an action against the real  
211 property.

212 (d) In addition to the penalties specified in this section, the  
213 enforcing agency may enforce the provisions of this chapter or a local  
214 housing code by injunctive relief pursuant to chapter 916.

215     (e) Any penalty imposed by an enforcing agency pursuant to the  
216     provisions of subsection (c) of this section, and remaining unpaid for a  
217     period of sixty days after its due date shall constitute a lien upon the  
218     real property against which the penalty was imposed from the date of  
219     such penalty, provided a notice of violation is recorded in the land  
220     records and indexed in the name of the property owner no later than  
221     thirty days after the penalty was imposed. Each such lien may be  
222     continued, recorded and released in the manner provided by the  
223     general statutes for continuing, recording and releasing property tax  
224     liens. Each such lien shall be effective from the time of the recording of  
225     the lien on the land records, shall take precedence over all other liens  
226     and encumbrances, except taxes, and may be enforced in the same  
227     manner as property tax liens. Each title insurance company issuing a  
228     policy for property in this state shall exclude coverage for loss or  
229     damage because of a valid existing lien or a future unrecorded lien  
230     imposed under this subsection.

231     (f) Any enforcing agency imposing a penalty pursuant to subsection  
232     (c) of this section shall maintain a current record of all properties with  
233     respect to which such penalty remains unpaid in the office of the  
234     municipal clerk. Such record shall be available for inspection by the  
235     public.

236     Sec. 5. Subdivision (10) of subsection (c) of section 7-148 of the  
237     general statutes is repealed and the following is substituted in lieu  
238     thereof (*Effective October 1, 2006*):

239     (10) (A) Make all lawful regulations and ordinances in furtherance  
240     of any general powers as enumerated in this section, and prescribe  
241     penalties for the violation of the same not to exceed [one hundred] two  
242     hundred fifty dollars, unless otherwise specifically provided by the  
243     general statutes. Such regulations and ordinances may be enforced by  
244     citations issued by designated municipal officers or employees,  
245     provided the regulations and ordinances have been designated  
246     specifically by the municipality for enforcement by citation in the same  
247     manner in which they were adopted and the designated municipal



248 officers or employees issue a written warning providing notice of the  
249 specific violation before issuing the citation;

250 (B) Adopt a code of ethical conduct;

251 (C) Establish and maintain free legal aid bureaus;

252 (D) Perform data processing and related administrative computer  
253 services for a fee for another municipality;

254 (E) Adopt the model ordinance concerning a municipal freedom of  
255 information advisory board created under subsection (f) of section 1-  
256 205 and establish a municipal freedom of information advisory board  
257 as provided by said ordinance and said section.

258 Sec. 6. Subsection (b) of section 51-164n of the 2006 supplement to  
259 the general statutes is repealed and the following is substituted in lieu  
260 thereof (*Effective October 1, 2006*):

261 (b) Notwithstanding any provision of the general statutes, any  
262 person who is alleged to have committed (1) a violation under the  
263 provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-  
264 283, 7-325, 7-393, 8-25, 8-27, 9-63, 9-296, 9-305, 9-322, 9-350, 10-193, 10-  
265 197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, as amended, 12-292,  
266 or 12-326g, as amended, subdivision (4) of section 12-408, subdivision  
267 (3), (5) or (6) of section 12-411, section 12-435c, 12-476a, 12-476b, 12-487,  
268 13a-71, 13a-107, 13a-113, 13a-114, 13a-115, 13a-117b, 13a-123, as  
269 amended, 13a-124, 13a-139, 13a-140, 13a-143b, 13a-247 or 13a-253,  
270 subsection (f) of section 13b-42, section 13b-90, 13b-221, 13b-292, 13b-  
271 336, 13b-337, 13b-338, 13b-410a, 13b-410b or 13b-410c, subsection (a),  
272 (b) or (c) of section 13b-412, section 13b-414, subsection (d) of section  
273 14-12, as amended, section 14-20a or 14-27a, subsection (e) of section  
274 14-34a, subsection (d) of section 14-35, section 14-43, 14-49, as  
275 amended, 14-50a or 14-58, subsection (b) of section 14-66, as amended,  
276 section 14-66a, 14-66b or 14-67a, subsection (g) of section 14-80,  
277 subsection (f) of section 14-80h, as amended, section 14-97a, 14-100b,  
278 14-103a, 14-105a, 14-106a, 14-106c, 14-146, 14-152, 14-153 or 14-163b, a

279 first violation as specified in subsection (f) of section 14-164i, section  
280 14-219 as specified in subsection (e) of said section, subdivision (1) of  
281 section 14-223a, as amended, section 14-240, 14-249, as amended, or 14-  
282 250, as amended, subsection (a), (b) or (c) of section 14-261a, section 14-  
283 262, 14-264, 14-267a, 14-269, 14-270, as amended, 14-275a, 14-278 or 14-  
284 279, subsection (e) of section 14-283, as amended, section 14-291, 14-  
285 293b, 14-319, 14-320, 14-321, 14-325a, 14-326, 14-330 or 14-332a,  
286 subdivision (1), (2) or (3) of section 14-386a, section 15-33, subsection  
287 (a) of section 15-115, section 16-256, 16-256e, 16a-15, as amended, or  
288 16a-22, subsection (a) or (b) of section 16a-22h, section 17a-24, 17a-145,  
289 as amended, 17a-149, 17a-152, 17a-465, 17a-642, 17b-124, 17b-131, 17b-  
290 137 or 17b-734, subsection (b) of section 17b-736, section 19a-30, 19a-33,  
291 19a-39 or 19a-87, subsection (b) of section 19a-87a, section 19a-91, 19a-  
292 105, 19a-107, 19a-215, 19a-219, 19a-222, 19a-224, 19a-286, 19a-287, 19a-  
293 297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338, 19a-339, 19a-340, 19a-  
294 425, 19a-502, 20-7a, as amended, 20-14, 20-158, 20-231, 20-257, 20-265 or  
295 20-324e, subsection (a) of section 20-341, section 20-341l, 20-597, 20-608,  
296 20-610, 21-30, 21-38, 21-39, 21-43, 21-47, 21-48, 21-63, as amended, 21-  
297 76a, 21a-21, 21a-25, 21a-26 or 21a-30, subsection (a) of section 21a-37,  
298 section 21a-46, 21a-61, 21a-63 or 21a-77, subsection (b) of section 21a-  
299 79, as amended, section 21a-85, 21a-154, 21a-159, 21a-201, 21a-211, 22-  
300 13, 22-14, 22-15, 22-16, 22-29, 22-34, 22-35, 22-36, 22-38, 22-39, as  
301 amended, 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49, 22-54, 22-61, 22-  
302 89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-279, 22-280a, 22-318a, 22-  
303 320h, 22-324a, 22-326 or 22-342, subsection (b) or (e) of section 22-344,  
304 section 22-359, 22-366, 22-391, 22-413, 22-414, 22-415, 22a-66a or 22a-  
305 246, subsection (a) of section 22a-250, as amended, subsection (e) of  
306 section 22a-256h, subsection (a) of section 22a-381d, section 22a-449, as  
307 amended, 22a-461, 23-37, 23-38, 23-46 or 23-61b, subsection (a) or (b) of  
308 section 23-65, section 25-37, 25-40, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-  
309 49, 26-54, 26-59, 26-61, 26-64, 26-79, 26-89, 26-97, 26-107, 26-117, 26-128,  
310 26-131, 26-132, 26-138, 26-141, 26-207, 26-215, 26-224a, 26-227, 26-230,  
311 26-294, 28-13, 29-6a, 29-109, 29-161y, 29-161z, 29-198, 29-210, 29-243, 29-  
312 277, 29-316, 29-318, 29-341, 29-381, 30-48a, 30-86a, as amended, 31-3, 31-  
313 10, 31-11, 31-12, 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25, 31-

314 28, 31-32, 31-36, 31-38, 31-38a, 31-40, 31-44, 31-47, 31-48, 31-51, 31-51k,  
315 31-52, 31-52a or 31-54, subsection (a) or (c) of section 31-69, section 31-  
316 70, 31-74, 31-75, 31-76, 31-76a, 31-89b or 31-134, subsection (i) of section  
317 31-273, as amended, section 31-288, 36a-787, 42-230, 45a-450, 45a-634 or  
318 45a-658, subdivision (13) or (14) of section 46a-54, as amended, section  
319 46a-59, 46b-22, 46b-24, 46b-34, 46b-38dd, 46b-38gg, 46b-38kk, 47-34a,  
320 47-47, 49-8a, 49-16 or 53-133, subsection (a) or (b) of section 53-211, or  
321 section 53-212a, 53-249a, 53-252, 53-264, 53-302a, 53-303e, 53-311a, 53-  
322 321, 53-322, 53-323, 53-331, 53-344 or 53-450, or (2) a violation under the  
323 provisions of chapter 268, or (3) a violation of any regulation adopted  
324 in accordance with the provisions of section 12-484, 12-487 or 13b-410,  
325 or (4) a violation of any ordinance, regulation or bylaw of any town,  
326 city or borough, except violations of building codes and the health  
327 code, for which the penalty exceeds ninety dollars but does not exceed  
328 two hundred fifty dollars, unless such town, city or borough has  
329 established a payment and hearing procedure for such violation  
330 pursuant to section 7-152c, shall follow the procedures set forth in this  
331 section.

332 Sec. 7. Section 51-164p of the general statutes is repealed and the  
333 following is substituted in lieu thereof (*Effective October 1, 2006*):

334 (a) Notwithstanding any provision of any special act, local law or  
335 the general statutes to the contrary, any violation of any ordinance,  
336 regulation or bylaw of any town, city or borough, except violations of  
337 building codes and the health code, for which the penalty does not  
338 exceed ninety dollars shall be an infraction as provided for in sections  
339 51-164m and 51-164n, as amended by this act.

340 (b) Notwithstanding any provision of any special act, local law or  
341 the general statutes, any violation of any ordinance, regulation or  
342 bylaw of any town, city or borough, except violations of building codes  
343 and the health code, for which the penalty exceeds ninety dollars but  
344 does not exceed two hundred fifty dollars shall be a violation as  
345 provided for in sections 51-164m and 51-164n, as amended by this act.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2006</i>	8-12
Sec. 2	<i>October 1, 2006</i>	8-12a
Sec. 3	<i>October 1, 2006</i>	47a-53
Sec. 4	<i>October 1, 2006</i>	47a-58
Sec. 5	<i>October 1, 2006</i>	7-148(c)(10)
Sec. 6	<i>October 1, 2006</i>	51-164n(b)
Sec. 7	<i>October 1, 2006</i>	51-164p

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Judicial Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

#### **Municipal Impact:**

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	Revenue Gain / Revenue Loss	Potential	Potential

### **Explanation**

The bill allows municipalities to place liens on real property to recover: (1) fines imposed for violations of certain municipal zoning and housing regulations; or (2) municipal expenses incurred against the property when executing an order of enforcement of public health and safety standards. Under the bill, such a lien would take precedence over any other lien or encumbrance against the property, except taxes. The bill increases the maximum fines that may be imposed for the violation of certain zoning codes or other municipal regulations and ordinances. These changes could increase municipal revenue and also result in a minimal revenue gain to the state since some of the fines that may be increased under the bill are payable to the state.

The bill also reduces the daily maximum fine, from \$500 to \$100, which may be imposed for housing code and tenement lodging house safety and health code violations, but maintains the maximum cumulative penalty that may be imposed under current law. The potential municipal revenue loss associated with this change is indeterminate.

***The Out Years******State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 09 \$</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Judicial Dept.	GF - Revenue Gain	Potential	Potential	Potential

Note: GF=General Fund

***Municipal Impact:***

<b>Municipalities</b>	<b>Effect</b>	<b>FY 09 \$</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Various Municipalities	Revenue Gain / Revenue Loss	Potential	Potential	Potential

**OLR Bill Analysis****SB 666*****AN ACT CONCERNING MUNICIPAL LIENS FOR ACCRUED FINES AND CERTAIN CODE VIOLATIONS.*****SUMMARY:**

This bill makes certain municipal zoning and housing and health related fines, expenses, charges, and penalties that remain unpaid for 60 days after they are due a priority lien on the violator's property if the municipality (1) records a violation notice on its land records within 30 days after the fine, expense, service charge, and penalty are imposed and (2) indexes it in the property owner's name.

Each such lien is effective from the time it is recorded on the land records, and it takes precedence over all other liens and encumbrances, except taxes. Thus, for example, it has priority over previously recorded mortgages or judgment liens. The bill authorizes the lien to be enforced in the same manner as property tax liens are enforced. The bill permits the lien to be continued, recorded, and released in the same way as property tax liens.

The bill requires that a current record of all properties for which fines, expenses, charges, and penalties remain unpaid be kept in the office of the municipal clerk and be available for public inspection. (The bill does not appear to make this requirement a condition for the creation of the priority lien.)

The bill prohibits title insurance companies from offering title insurance coverage for loss or damage because of the priority lien the bill establishes.

Further, the bill increases several fines that municipalities may impose for various zoning and housing related violations, and

decreases the daily maximum fine that they may impose for housing code and tenement or lodging house safety and health code violations. Most of these fines are those affected by the bill's priority lien.

Also, the bill authorizes violations of any municipal ordinance, regulation, or bylaw, except violations of building codes and the health code, for which the penalty exceeds \$99 but does not exceed \$250 to be handled as an infraction, unless the municipality has established a payment and hearing procedure for such violation as authorized by law. Thus, an accused violator does not have to appear in court if he pays his fine and any applicable additional fees or costs by mail. The payment is considered a no contest plea and is inadmissible in any civil or criminal proceeding to establish his conduct.

EFFECTIVE DATE: October 1, 2006

## **FINES, EXPENSES, CHARGES, AND PENALTIES TO WHICH THE PRIORITY LIEN APPLIES**

### ***Zoning***

By law, any municipality may, by ordinance, establish penalties for violations of its zoning regulations. The ordinance must establish the types of violations for which a citation may be issued and the amount of any fine to be imposed.

The bill increases the maximum daily fine a municipality may impose from \$150 to \$250. It makes any such fine that remains unpaid for 60 days after its due date a priority lien upon the real estate against which it was imposed from the date it was imposed.

The bill increases the criminal fines that can be imposed for a violation of a zoning regulation. It subjects a violator to a fine of \$100 to \$500, instead of to a fine of \$10 to \$100. If the offense is willful, the bill subjects the violator to a fine of \$500 to \$1,000 instead of a fine of \$100 to \$250.

By law, anyone who, having been served with an order to discontinue a zoning violation, fails to comply with such order within



10 days after such service, is subject to a civil penalty of \$2,500. The same penalty applies to someone who, having been served with a cease and desist order with respect to a violation involving grading of land, removal of earth or soil erosion and sediment control, fails to comply immediately, or continues to violate any zoning regulation.

Apparently, the bill makes any such civil fine imposed by a municipality and remaining unpaid for 60 days after its due date a lien upon the real estate against which the fine was imposed from the date of such fine. (The bill refers to penalties the municipality imposes, but it appears that the Superior Court imposes the civil penalty.)

### ***Tenement, Lodging, or Boarding Houses***

By law, whenever any tenement, lodging, or boarding house is in a condition that is dangerous or detrimental to life or health, or whenever any such house in the opinion of the board of health or other enforcing agency, is violating the law requiring houses to have adequate heat, the board or other enforcing agency may declare that it is a public nuisance. The board or enforcing agency may order the nuisance removed or otherwise remedied.

If the order is not complied with within five days after it has been served on the owner, it may be executed by the board or other enforcing agency. The law requires municipalities to collect the expense of executing such orders, including an amount up to five percent of the expense as a service charge and 10% of the expense of doing so as a penalty.

The bill makes any expense of executing such an order, including any service charge and penalty, imposed by the board of health or other enforcing agency and remaining unpaid for 60 days after its due date a lien upon the real estate against which the expense was imposed from the date of such expense.

### ***Housing Codes and Health and Safety Standards in Tenement and Boarding Houses***

By law, any enforcing agency may issue a notice of violation to

anyone who violates any provision of state law regarding health and safety standards in tenement and boarding houses, or of a provision of a local housing code. The notice must specify each violation and specify the last day by which it must be corrected. Anyone who fails to correct any violation before this date is subject to a cumulative civil penalty of \$5 a day for each violation from the date set for correction in the violation notice to the date it is corrected.

The bill decreases the daily maximum penalty from \$500 to \$100. It makes any such penalty remaining unpaid for 60 days after its due date a lien upon the real property against which the penalty was imposed from the date of such penalty.

### ***General Authority to Adopt Ordinances***

The bill increases the maximum penalty municipalities may prescribe, from \$100 to \$250, for violations of regulations and ordinances they adopt in furtherance of the general powers conferred on them by state law.

## **BACKGROUND**

### ***Tenement, Lodging, and Boarding House***

A “tenement house” means any house or building, or portion of it, rented to be occupied, or arranged or designed to be occupied, or occupied, as the home or residence of three or more families, living independently, and doing their cooking upon the premises, and having a common right in the halls, stairways, or yards. A “lodging house” or “boarding house” means any house or building or portion of it, in which six or more people stay, or any building or part of it, used as a sleeping place or lodging for six or more persons not members of the family living there (CGS § 47a-50(1)).

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 38      Nay 0      (03/27/2006)